



ENGINEERS
AUSTRALIA

7th October

Dear Roz,

Thank you for the opportunity to review the documentation pertaining to the *Professional Engineers Registration Act 2019* and implementation of the scheme. We recognise the enormous amount of work that has been undertaken by your team. Thank you to you all for consulting with industry and the numerous stakeholder groups throughout the drafting of this documentation. It is clearly evident in the documents that have been produced that there has been a vast amount of input from the profession. We would also like to acknowledge the input of the Office of Projects Victoria in working with your team, in particular the development of the guidance material.

We also acknowledge the input from our members in assisting us to develop this feedback. All 100,000 Australian members were advised via a CEO update of both Engineers Australia and the Government's consultation. Additionally, our 20,000 Victorian members were all emailed directly. 355 individuals joined the virtual information session that we hosted with yourself and Christine Nigro and approximately 20 members joined each of our virtual discussions sessions of which we held eight in total. This has allowed us to gather feedback and concerns and represent our members through this feedback.

We provide the attached document outlining our feedback. As a general comment, we found through our consultation that engineers are still finding it difficult to understand the applicability of the laws to their given situation. We understand that you will be providing further guidance materials, FAQs documents and we would also welcome the inclusion of case studies to assist engineers to fully appreciate the situation as it pertains to their situation.

We do have several concerns to raise as a matter of priority as follows:

Guidelines on areas of engineering

Further consideration on how to address subdisciplines that may fall under multiple disciplines is required. This particularly relates to those subdisciplines that may fall under a discipline that is not currently required for registration.

For example, a competent professional environmental engineer may have a degree in civil engineering, chemical engineering or environmental engineering and should not be restricted from practising in their area of competence because the "subdiscipline" is listed as a subdiscipline of Civil engineering.

Another example is fire protection and fire services engineering which are distinctly separate from fire safety engineering. Whilst we have suggested a parent discipline for these, other parent disciplines may also apply.

We support the registration of all disciplines of engineers, and the eventual broadening of the scheme beyond the initial five disciplines, but do not want to see those that meet the requirements of professional engineer penalised because their discipline has not yet been listed for registration, but their subdiscipline has been allocated to another discipline.

Code of Conduct for Professional Engineers

There is a strong sentiment amongst members that the Code is too heavily weighted towards the client, with little consideration of community expectations. We have suggested this be better balanced by including references to the public interest in Sections 3 and 5.

Part 2 – General and Exemptions

Regulation 7 Exemptions – relating to phasing-in registration

We believe that the timeframe to introduce the disciplines is excessively long at almost 2.5yrs and allows very little time to review the first 3 years of operation of the Act which must be undertaken in the fourth year.

From the commencement of the scheme until 1 December 2021, a period of five months, only engineers in the building sector will be required to be registered. The vast majority of these are already registered as building practitioners and therefore will be deemed into the scheme on expiry of their current registration as a building practitioner. The next group to require registration will be fire safety engineers, the vast majority of whom are building practitioners and deemed into the scheme. For the first 15 months of the scheme's operation the vast majority of registrations will be deemed across from the current scheme operating under the Building Act.

There is a delay until 1 October 2022, some 15 months after the scheme comes into existence before any largely unregulated discipline requires registration with the requirement for civil and structural engineers to become registered. This will be the first cohort to be required to go through the process of assessments with the appointed assessment entities.

It would seem practical, given that assessment entities can manage the increased demand for assessments, that these cohorts should be brought into the scheme earlier to ensure that the scheme is operational for all cohorts for a reasonable time before the scheme's review is undertaken.

Part 2 – General and Exemptions

Regulation 9 – Continuing Professional Development

Whilst we take on board the feedback that this is not a requirement of the Act and therefore the legislative power does not allow this to be included in the regulations we strongly believe that CPD should be an initial requirement of the scheme and recommend this is reviewed in the Act at the earliest opportunity. This reflects the current industry standard within Australia and internationally and is well understood by the profession that CPD is a requirement of the National Engineering Register and the BPEQ. We have long been advising our members that the best way to prepare for registration is to commence recording CPD activity and the vast majority of engineers are aware of and prepared for this.

Given the importance of CPD we would urge for this to be included at the time of registration as soon as possible.

Thanks again for the opportunity to review this documentation. Please don't hesitate to contact myself or Lyal Douglas if you would like to discuss in any further detail.

Yours sincerely



Alesha Printz
General Manager, Victoria

Guidelines on providing professional engineering services

<p>The elements of a professional engineering service</p> <p>(i) The service is an engineering service</p>	<p><i>“Professional engineering services do not include responsibility for supervising site conditions, equipment, personnel or safety in the workplace. Other laws and legislation make professional engineers responsible for these and other workplace or occupational health and safety obligations when providing professional engineering services.”</i></p> <p>Consider instead: <i>“Supervising site conditions, equipment, personnel or safety in the workplace are not considered to meet the definition of professional engineering services however these activities may be undertaken by a professional engineer. A professional engineer must meet all obligations for workplace safety outlined in other legislation as they pertain to the professional engineer’s individual role, whether that be in design, construction, operation or maintenance.”</i></p>
	<p>In relation to certification this section states:</p> <p><i>“To do this they:</i></p> <ul style="list-style-type: none"> • <i>may rely on work performed by other registered practising professional engineers who practice in the relevant area/s of engineering, and</i> • <i>must be able to identify all the registered practising professional engineers who provided professional engineering services on a project.”</i> <p>This would seem onerous on large projects and could perhaps state:</p> <ul style="list-style-type: none"> • <i>must be able to identify all the registered practising professional engineers who provided professional engineering services <u>to which they have relied on to provide this certification.</u></i>
<p>(ii) The service required, or is based on the application of engineering principals and data</p>	<p>Consider additional text:</p> <p><i>“Therefore, to be a professional engineering service,...design, construction, production, operation or maintenance <u>activity relating to engineering including but not limited to</u> structures, engines, machines, electrical equipment...”</i></p>
	<p>Further clarification is required regarding the production environment, specifically relating to engineering operation and maintenance. Case studies would be useful.</p>

Guidelines on direct supervision

<p>Establishing direct supervision</p> <p>(ii) Be competent and have sufficient knowledge to perform the service</p>	<p>Consider changing “Supervising registered engineer” to “supervising practising registered engineer”. This should be reviewed across the whole document to clarify the requirement for the supervising engineer to be registered as practising.</p>
<p>Record keeping</p>	<p>Record keeping examples would be useful including a template agreement to confirm that a supervising relationship is in place. Who is expected to manage these records and for what duration should they be maintained?</p>

Guidelines on the extraterritorial application of the Act

When the act applies	<p>Our understanding is that the Act applies to engineering services not the products that are delivered as a part of those services. How does the Act apply if a product were developed outside of Victoria without specific intent to be <i>for Victoria</i> but later becomes used/procured here? For example, mobile plant designed/engineered for another location that subsequently is relocated to Victoria.</p> <p>Would a locally registered engineer be required to review/endorse the product before it could be sold/used in Victoria? Or would the product be able to be used without further engineering review?</p> <p>In QLD, there is an exemption from the legislation for engineering work which does not have specific application in QLD (for example 'generically engineered products'). The designer of a motor vehicle which is designed for use anywhere in the world doesn't have to be registered as a RPEQ. Will that apply in Victoria?</p>
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Guidelines on areas of engineering

Structural engineering	<p>Structural engineering should be listed as a separate discipline given that the Act treats it as a separate discipline.</p> <p>Structural engineering in the building industry wouldn't include hydraulic supply and waste systems.</p>
Electrical engineering	<p>Electrical engineering in the building industry would include power distribution systems, UPS and cogeneration and fire protection engineering.</p>
Mechanical engineering	<p>Fire services engineering could be added.</p>
Civil engineering	<p>Pavement engineering should be listed as a subdiscipline of civil engineering.</p>
General comment	<p>Further consideration on how to address subdisciplines that may fall under multiple disciplines is required. This particularly relates to those subdisciplines that may fall under a discipline that is not currently required for registration.</p> <p>For example, a competent professional environmental engineer may have a degree in civil engineering, chemical engineering or environmental engineering and should not be restricted from practising in their area of competence because the "subdiscipline" is listed as a subdiscipline of Civil engineering.</p> <p>Another example is fire protection and fire services engineering which are distinctly separate from fire safety engineering. Whilst we have suggested a parent discipline for these, other parent disciplines may also apply.</p> <p>We support the registration of all disciplines of engineers but do not want to see those that meet the requirements of professional engineer penalised because their discipline has not yet been listed for registration, but their subdiscipline has been allocated to another discipline.</p>
Building endorsement	<p>It needs to be clear as to which engineering services in the building industry will be requiring endorsement. Will this only apply to those requiring registration under the Building Act 1993 or will other engineers working in the building industry require endorsement? For example, temporary work engineers, whilst a requirement of the building industry, do not currently require registration under the Building Act 1993. Under the Professional Engineers Registration scheme, a temporary works engineer typically providing a structural or civil engineering</p>

		<p>service would need to be registered however it is unclear if they would need to be endorsed and if their registration would need to commence on July 2021 or the later date for structural engineers who are initially exempt.</p> <p>Similarly, geotechnical engineers who are a subset of civil engineers, but typically not registered under the Building Act.</p>
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Guidelines on prescriptive standards

Criteria for determining a prescriptive standard		<p>Update to include maintenance:</p> <p>(ii) <i>state procedures or criteria for carrying out the design, or the construction, production <u>or maintenance</u> activity to which it relates</i></p>
Examples of prescriptive standards		<p>The document should include detail clarifying that only a registered professional engineer can determine when a prescription standard would apply and to the specific situation to which it would apply. This excludes any document that is clearly listed as a prescriptive standard in the Guideline, such as AS1684 2010 – Timber Framing Code.</p>
Examples of prescriptive standards		<p>Year reference should be included when referencing standards AS1684 2010 – Timber Framing Code, published by Standards Australia</p>
Examples of prescriptive standards		<p>Examples of prescriptive standards and their applications would be useful (noting that these standards will only be prescription as outlined by the professional engineer and may not apply as a prescriptive standard in all applications).</p>
		<p>Further detail requested as to the application of models and software for this purpose, however consideration must be given to the engineering judgement that is required relating to the assumptions that are input into the model and the interpretation of the results.</p>

Proposed Professional Engineers Registration (General, Exemption and Assessment Scheme Fees) Regulations 2020

<p>Part 2 – General and exemptions</p> <p>Regulation 7 Exemptions – relating to phasing-in registration</p>		<p>We believe that the timeframe to introduce the disciplines is excessively long at almost 2.5yrs and allows very little time to review the first 3 years of operation of the Act which must be undertaken in the fourth year.</p> <p>From the commencement of the scheme until 1 December 2021, a period of five months, only engineers in the building sector will be required to be registered. The vast majority of these are already registered as building practitioners and therefore will be deemed into the scheme on expiry of their current registration as a building practitioner. The next group to require registration will be fire safety engineers, the vast majority of whom are building practitioners and deemed into the scheme. For the first 15 months of the scheme's operation the vast majority of registrations will be deemed across from the current scheme operating under the Building Act.</p> <p>There is a delay until 1 October 2022, some 15 months after the scheme comes into existence before any largely unregulated discipline requires registration with the requirement for civil and structural engineers to become registered. This will be the first cohort to be required to go through the process of assessments with the appointed assessment entities.</p>
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		It would seem practical, given that assessment entities can manage the increased demand for assessments, that these cohorts should be brought into the scheme earlier to ensure that the scheme is operational for all cohorts for a reasonable time before the scheme's review is undertaken.
Part 2 – General and exemptions Regulation 9 – Continuing Professional Development		Whilst we take on board the feedback that this is not a requirement of the Act and therefore the legislative power does not allow this to be included in the regulations we strongly believe that CPD should be an initial requirement of the scheme and recommend this is reviewed in the Act at the earliest opportunity. This reflects the current industry standard within Australia and internationally and is well understood by the profession that CPD is a requirement of the National Engineering Register and the BPEQ. We have long been advising our members that the best way to prepare for registration is to commence recording CPD activity and the vast majority of engineers are aware of and prepared for this. Given the importance of CPD we would urge for this to be included at the time of registration as soon as possible.
		Requested that a plain language document be provided once this is finalised.

Code of Conduct for Professional Engineers

Consider through this document when <i>registered practising professional engineer</i> should replace <i>registered professional engineer</i>		
There is a strong sentiment amongst members that the Code is too heavily weighted towards the client, with little consideration of community expectations. We have suggested this be better balanced by including references to the public interest in Sections 3 and 5.		
The Code should include a section on maintaining current and relevant skills through a commitment to Continuing Professional Development, most likely within Section 3.		
Professional conduct obligations		
1 Know and Comply with the law	Pg2	Consider inclusion of additional wording: (1) <i>In providing professional engineering services, a registered professional engineer must know and if safe to do so, comply with –</i> <i>(a) the Professional Engineers Registration Act and the regulations made under that Act, and</i> <i>(b) any other laws relevant to the functions performed by a registered professional engineer.</i> (2) <i>An endorsed building engineer must also know and if safe to do so, comply with –</i> <i>(a) the Building Act and the regulations made under that Act, and</i> <i>(b) any other laws relevant to the functions performed by an endorsed building engineer.</i>

<p>3 Deliver good practice professional engineering services</p>	<p>Consider amended wording:</p> <p>(1) A registered professional engineer must—</p> <p>(a) exercise skill, care and diligence in the provision of professional engineering services</p> <p>(b) carry out professional engineering services:</p> <p>(i) to the best of their knowledge and ability, based on the standard of care expected by the engineering profession, and</p> <p>(ii) with reasonable promptness in accordance with according to the timeframes agreed between a client and a professional engineer and their employer, and</p> <p>(c) seek peer review of the professional engineering services they provide, unless impracticable to do so.</p> <p>Given that the Act does outline a requirement for peer review it seems unreasonable to include this here without further detailed guidance outlining the requirement for peer review which should follow a risk based approach. Many organisations will implement their own internal design verification processes, there will be instances where independent peer review is required. At other times, it may be appropriate for an independently practising, registered professional engineer to undertake work with no further review. Furthermore, the definition of ‘impracticable’ is open to interpretation.</p>
	<p>(2) A registered professional engineer must not engage in conduct that is detrimental to the reputation or interests of the engineering profession <u>or contrary to the public interest.</u></p>
<p>5 Act in the best interests of a client</p>	<p>Consider amended wording:</p> <p>Unless it would be unlawful, unreasonable, or improper to do so <u>or contrary to the public interest</u>, a registered professional engineer must:</p> <p>(a) act in the best interests of a client and according to a client's instructions at all times, and</p> <p>(b) refuse any services provided by a third party in support of a professional engineering services that are contrary to the best interests of a client.</p>
<p>7 Directly supervise</p>	<p>Consider amended wording:</p> <p>A registered professional engineer who directly supervises an unregistered person must –</p> <p>(a) Only directly supervise an unregistered person within <u>their</u> area of competence.</p> <p>Consider replacing “their” with “the registered engineer’s” to remove doubt as to who is being referenced in this sentence.</p>
<p>9 Avoid Managing conflicts of interest</p>	<p>This section should be titled Managing Conflicts of Interest, specifically to allow minor conflicts to be managed with a client’s awareness rather than precluding an engineer from this work.</p>
<p>12 Inform and communicate with clients</p>	<p>Consider amended wording:</p>

		<p>(1) A registered professional engineer must communicate with a client or prospective client in a timely and effective manner <u>in accordance with agreed timeframes</u> regarding professional engineering services, fees, costs, outcomes and risks.</p>
13 Maintain client records		<p>A clear time limit for requirement to maintain records should be articulated, 10 years would appear to be consistent. It should also be clarified if this can be outsourced.</p>